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RM-9060

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VIA HAND DELIVERY

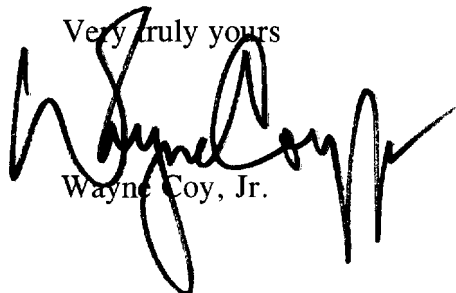
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Caton

Transmitted herewith, on behalf of The National ITFS Association, are the original and five (5) copies of its Comments in the Docket to Amend Parts 21 and 74 To Enhance The Ability of Multipoint Distribution Service and ITFS Licensees To Engage in Fixed Two-Way Transmissions.

Should you have any questions with respect to this filing, please contact the undersigned.

Very truly yours


Wayne Coy, Jr.

Enclosures

RECEIVED
MAY 14 1997
Federal Communications Commission
Office of Secretary

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BEFORE THE
Federal Communications Commission

In the Matter of)
)
Amendment of Parts 21 and 74 to Enhance)
The Ability of Multipoint Distribution Service)
And Instructional Fixed Television Fixed)
Service Licensees To Engage In Fixed)
Two-Way Transmissions)

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COMMENTS

The National ITFS Association ("NIA"), by and through its Counsel, files these Comments in the above-captioned proceeding to urge the Commission to exercise extreme caution in its approach to the wholesale changes in the proposed use of spectrum contemplated in this matter that we believe will jeopardize present and future uses of the affected frequencies for their original reserved purpose of providing educational and instructional services to students enrolled in for-credit courses in elementary, secondary, post-graduate, and career training in public, private, and parochial schools, community and junior colleges, public and private universities. In support of its position, NIA offers the following:

BACKGROUND

1. NIA is a national association of more than 60 educators in 26 states and the District of Columbia who are using Instructional Television Fixed Service ("ITFS") frequencies to provide the educational services described above.

2. The purpose of the organization is to promote the effective use of the ITFS spectrum for its intended educational uses and to encourage and assist potential user institutions to develop local, regional, or national instructional networks using ITFS. In addition, NIA, through a quarterly newsletter, keeps its members informed as to regulatory, administrative, and judicial decisions affecting the industry, and presents articles of interest to professional educators generally involved in the concept of distance learning.

3. At this point in history when the government of the United States has thrown itself behind the concept of Universal Service and the concept of distance learning has begun to emerge as a leading factor in the life-long educational process, NIA, more than ever, feels both the obligation and need to defend its minuscule portion of the spectrum from a hostile takeover by an industry that wants to use it for entirely new and inconsistent uses. As is more fully set out below, NIA has gone on record as believing in an active, informed, partnership with the wireless cable industry, and has participated, and continues to participate, with that industry in forging a lasting working relationship consistent with NIA's stated purposes.

4. NIA has been an active participant in proceedings before the Commission since 1984. NIA joined with the wireless cable industry in filing a compromise statement that was instrumental in the creation of the channel loading concept in the pre-digital environment. NIA is currently engaged in a dialogue with the leadership of the wireless cable industry in attempting to work out a similar compromise in the digital world. However, NIA's reading of the proposal does not lead to the same sort of position or possibilities.

DISCUSSION

5. The wireless industry, in this proposal would have the world believe that the wholesale changes its proposes are the result of "increasing competitive demand to provide high-speed services to subscribers, such as Internet Access". Their proposal goes far beyond that necessary for two-way uses envisioned for educational purposes. Their proposal to "allow MDS and ITFS licensees to use some or all of their 6 MHZ channels for return links from subscribers, to cellularize their transmission systems, and to use subchannels (*i.e.*, the transmission of multiple signals over a single channel) or superchannels (*i.e.*, the transmission of a single signal over multiple adjacent channels) for digital transmissions in either direction" is not only overkill to the nth degree, but would render the spectrum irretrievably restructured and thus lost for its educational purposes.

6. NIA does not oppose the availability of two-way audio and video. Many educators feel that the present audio-only return is less than ideal and, in some cases, less than adequate. But the kind and type of two-way communications they require for educational purposes does not require the wholesale restructuring of the ITFS frequencies as put forth in this proposal. If the FCC can, in its wisdom, fashion a solution out of the proposal that allows educators to use their own licensed frequencies for their own purposes for two-way communications, that allows educators to terminate leases, reclaim those frequencies for educational uses and use them without affecting other users, the NIA would support such a proposal. If, however, such a quiet restitution of educational uses on licensed frequencies is not possible, then NIA must oppose the proposal, and look forward to fashioning another proposals that meet its more limited objectives without restructuring. Regrettably, NIA feels that the short time given it to review this

extraordinarily complex proposal leaves it no choice but to register to the matter as proposed. This does not mean that NIA wishes to forego any opportunity to achieve two-way communications. To the contrary, NIA and its members are anxious for such a capability. But it is not willing to forever bind itself in a new configuration without the hope of reinstating its current services in its present format.

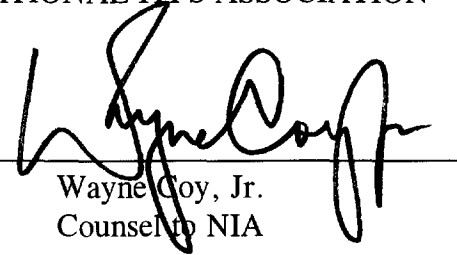
7. Having said that, NIA feels that if the FCC, in its wisdom, wishes to adopt the proposal essentially as proposed, it should do so with certain specific changes. In the first place, there must assurances to present and future ITFS licensees that they can operate in the present format without need to relocate, digitalize, or otherwise alter their service due to use of adjacent channels for the newly proposed services. Any leases that allow for subchannelization or superchannelization must contain clauses providing for recapture of those frequencies in the event of business failure of the lessee or termination of the lease. All licensing of all frequencies, including all subchannels and all superchannels, and all booster channels must be by the ITFS entity. Any use that a lessee makes of any facility must also be a use available to an ITFS licensee.

8. In short, NIA's greatest concern is that the actual deployment of the proposed cellular systems will be so complex that they cannot be undone, partially or completely, and returned to the present service. Secondly, it seems inevitable that, except under unusual circumstances, an ITFS operator will never be able to use any portion of the frequencies of which it is the licensee. Thirdly, that the renewal of the leases with the wireless operators will become all but automatic because there will be no way that an educator can extract him/herself from the system without disruption of the remaining elements of the system.

For all of the above reasons, The National ITFS Association feels that the present proposal is not justified due to the benefits to the educational community, will cause present and future disruption to in areas where mixed uses are contemplated, and will not allow for a return to the present uses if, for some reason, such a change is desired.

Respectfully submitted

NATIONAL ITFS ASSOCIATION

By 
Wayne Coy, Jr.
Counsel to NIA

May 14, 1997